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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/955,894	09/19/2001	Deborah Marie Coccaro	Z6000(V)	9842

201 7590 08/15/2003

UNILEVER
PATENT DEPARTMENT
45 RIVER ROAD
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EXAMINER
SHAPIRO, JEFFERY A

ART UNIT	PAPER NUMBER
3653	

DATE MAILED: 08/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/955,894	COCCARO ET AL.	
	Examiner	Art Unit	
	Jeffrey A. Shapiro	3653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *19 September 2001* .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-13* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-13* is/are rejected.

7)☒ Claim(s) *2-5,8 and 9* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 7 .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Claim Objections

1. Claims 2-5, 8 and 9 are objected to because of the following informalities: the Markush grouping appears to be missing "the group consisting of".

Claim 11 is objected to because it appears that sum subscripts, such as N in $(P_T)_N$ should be $(P_T)N$, for example.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

3. The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 1-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Brown (US 6,578,763). Brown discloses the following method for purchasing a consumer product.

As described in Claim 1;

1. selling a consumer product (detergent) in a package (a bottle/container) to a consumer at a point of purchase establishment;

2. instructing the consumer to retain the package after the consumer product has been consumed;

3. providing a means for the customer to have the package refilled with consumer product;

(see col. 1, lines 10-40);

As described in Claims 2, 3 and 9;

4. the product is a liquid detergent (see abstract and figure 1);

As described in Claim 4;

5. the point of purchase establishment is a mini-mart, department store, drug store or supermarket (see col. 1, lines 10-12);

As describe in Claim 5;

6. the package is a bottle (see col. 1, lines 13 and 14);

As described in Claims 6 and 8;

7. the bottle contains liquid detergent (see col. 1, lines 12 and 14);

As described in Claim 10;

10. the package has an information device and is refilled by being placed in association with a refilling device having an information detector

for reading information about the product off of the information device (see col. 3, lines 43-52;)

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brown in view of Duvall (US 5,522,428). Brown discloses the method as described above. Brown further discloses refilling a container/bottle a number of times. See, for example, col. 2, lines 4-25. Brown does not expressly disclose, but Duvall discloses the following.

As described in Claim 7;

8. the package is refilled a predetermined number of times, the predetermined number being less than a number of times that causes stress fractures in the package;

(Note that Duvall discloses in col. 1, lines 50-65, that cyclic filling and refilling of a container subjects said container to cyclic fatigue, noting also in line 52-54, that such a cyclic filling and refilling under pressure is life limiting to the container. Note also that

Gomez et al (US 5,319,003) discloses that composite articles and long fatigue life are desirable properties for a container to have. See col. 1, lines 15-47. See also Humele et al (US 6,599,569 B1) which discloses that plastic bottles flex when pressurized. See col. 3, lines 25-36. Herman et al (US 4,090,394) discloses a plastic bottle testing apparatus which produces a stress-strain curve for thermoplastic bottles. See abstract.

Both Brown and Duvall are considered to be analogous art because Brown discloses repeatedly filling a bottle at pressure and Duvall speaks to a cyclic fatigue life of such bottles.

At the time of the invention, it would have been obvious to one ordinarily skilled in the art to have limited the number of refills based on the fatigue cycle life of the bottle under repeated pressurized fillings.

The suggestion/motivation would have been to prevent possibly dangerous or unwanted bursting of the container used for repeated fillings of detergent.

Therefore, it would have been obvious to combine Brown and Duvall to obtain the invention as described in Claim 7.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brown in view of Littlejohn. Brown disclosesthe method as described above. Brown further discloses the following.

(Note that the method of Brown discloses a customer buying an original container with detergent at an original price, then discounting subsequent refills at a

price that reflects a certain discount based upon the lack of requirement for a container. Applicant's formula discloses prepaying for a set number of refills, where the original purchase price for the refillable container is discounted for the container originally bought, but no longer required for subsequent refills.) Brown does not expressly disclose, but Littlejohn discloses the following.

As described in Claim 11;

11. the method satisfies the formula $P_0 < P_T + (P_T)N'$

Where $P_0 = P_T + (P_R)N$

P_0 = original purchase price of a consumer product

P_T = typical purchase price of a consumer product

P_R = refill price

N = a defined number of refills

N' = a defined number of purchases

N=N'

(Note that Littlejohn discloses prepaying for a certain amount of power based in units such as gallons of water or cubic feet of gas. The number of refills can be considered to be equivalent to a particular amount of the utility, such as gallons of water or cubic feet of gas. The customer's account is then credited accordingly. See col. 3, lines 20-29 and col. 11, lines 24-53.)

Both Brown and Littlejohn are considered to be analogous art because Brown discloses repeatedly filling a bottle with detergent, each refill being at a set price and Littlejohn describes prepaying for a set amount of "refills" of a utility.

At the time of the invention, it would have been obvious to one ordinarily skilled in the art to have prepaid for a set number of refills.

The suggestion/motivation would have been to allow for a more efficient method to pay purchases and to reduce the individual cost of the material (detergent) refilled. See col. 3, lines 15-50 and col. 2, lines 33-50. Note also that detergent refills are considered equivalent to volume of water or volume of gas, for example. Note also that such a payment scheme is considered to be the same as prepaying for a wide number of items, with detergent substituted. See, for example, Hassett (US 5,805,082), which discloses a prepaid toll pass system in which a customer prepays for a set number of toll passages. See col. 23, lines 36-44 and col. 24, lines 3-11. Note also Kolls (US 6,056,194) which describes prepaid copy cards whereby a customer prepays for a set number of copies. See col. 2, lines 62-67 and col. 3, lines 1-18.

Therefore, it would have been obvious to combine Brown and Littlejohn to obtain the invention as described in Claim 11.

Conclusion

7. Applicant and the assignee of this application are required under 37 CFR 1.105 to provide the following information that the examiner has determined is reasonably necessary to the examination of this application.

8. It is requested that information pertaining to the origin/derivation of the equation/formula described in the specification at p.7, last paragraph and p.8, as well as in Claim 11 be provided.

9. This requirement is an attachment of the enclosed Office action. A complete reply to the enclosed Office action must include a complete reply to this requirement. The time period for reply to this requirement coincides with the time period for reply to the enclosed Office action.

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bradbury et al is cited a further example of a refillable product scheme, Miller is cited as an example of a prepaid gasoline method and Annand (CA 2346550) is cited as describing a refillable item method concerning coffee mugs.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey A. Shapiro whose telephone number is (703)308-3423. The examiner can normally be reached on Monday-Friday, 9:00 AM-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald P. Walsh can be reached on (703)306-4173. The fax phone numbers for the organization where this application or proceeding is assigned are (703)306-4195 for regular communications and (703)306-4195 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1113.

Jeffrey A. Shapiro
Patent Examiner,
Art Unit 3653

August 5, 2003

DONALD P. WALSH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600